

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

IN RE: MERCEDES-BENZ TELE  
AID CONTRACT LITIGATION

MDL No. 1914

This Document relates to:

ALL ACTIONS

**CASE MANAGEMENT**

WHEREAS, the actions that have been transferred to this Court (collectively, the "Actions") assert claims against Defendant, Mercedes-Benz USA, LLC ("Mercedes-Benz"), related to, *inter alia*, the cessation of analog wireless service and resulting unavailability of "Tele Aid" telematics services to certain Mercedes-Benz owners and lessees; and

WHEREAS, in an effort to effectively manage this litigation and move this litigation forward in an efficient manner, for purposes of all pre-trial matters,

IT IS, this 11<sup>th</sup> day of April 2008, ORDERED:

**A. Pre-Trial Consolidation**

1. Each of the Actions and all other actions subsequently filed in or transferred to this Court that assert putative class claims arising from or relating to the unavailability of "Tele Aid" telematics services to owners or lessees of Mercedes-Benz vehicles originally equipped with analog-only telematics equipment are hereby consolidated for pre-trial purposes (the "Consolidated Action").

2. A Master Docket and a Master File are hereby established for the Consolidated Action as follows:

IN RE: MERCEDES-BENZ TELE AID :  
CONTRACT LITIGATION : MDL No. 1914  
\_\_\_\_\_:

3. All papers hereafter filed in the Consolidated Action shall bear the caption above.

4. When a case which relates to the subject matter of the Consolidated Action is hereafter filed in this Court or transferred to this Court from another Court, the Clerk of Court shall:

- a. Make an appropriate entry in the Master Docket;
- b. Mail a copy of this Order to the attorneys for the plaintiffs in the newly-filed or transferred case, and to the attorneys for any new defendants named in the newly filed or transferred case; and
- c. Mail a copy of the Order of assignment to counsel for plaintiffs and counsel for defendant in the Consolidated Action.

The Court requests the assistance of counsel in calling to the attention of the Clerk of Court the filing or transfer of any case that might properly be consolidated with the Consolidated Action.

5. This Order shall apply to each case subsequently filed in this Court or transferred to this Court unless a party objecting to the consolidation of such case or to any other provision of this Order shall, within twenty-one (21) days after the date upon which a copy of this Order is mailed to counsel for such party, file an application for relief from this Order or any provision herein, and this Court deems it appropriate to grant such application.

6. The terms of this Order shall not have the effect of making any person, firm, or entity a party to any action in which he, she, or it has not been properly named, served, or joined in accordance with the Federal Rules of Civil Procedure. The terms of this Order and the

consolidation ordered herein shall not constitute a waiver by any party of any claims in or defenses to any of the actions, including defenses based on personal jurisdiction.

**B. Appointment of Interim Co-Lead Class Counsel and Liaison Counsel for Plaintiffs**

1. Jonathan Selbin of Lieff, Cabraser, Heimann & Bernstein, Eric Gibbs of Girard Gibbs LLP, and James Cecchi of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein, P.C., are appointed Interim Co-Lead Class Counsel ("Co-Lead Class Counsel").

2. Lisa J. Rodriguez of Trujillo Rodriguez & Richards, LLC, is appointed Interim Plaintiffs' Liaison Counsel ("Liaison Counsel").

**C. Responsibilities and Authority of Co-Lead Class Counsel and Liaison Counsel**

Co-Lead Class Counsel shall be generally responsible for conducting the prosecution of the litigation on behalf of plaintiffs, and shall include the following:

(1) determining and presenting (in briefs, oral argument, or such other fashion as may be appropriate, personally or by a designee) to the Court and opposing parties the position of the plaintiffs on all matters arising during pretrial proceedings (no motions, request for discovery, or other pre-trial proceedings in this litigation shall be initiated or filed except through Co-Lead Class Counsel and Liaison Counsel);

(2) coordinating the initiation and conduct of discovery on behalf of plaintiffs consistent with the requirements of the Federal Rules of Civil Procedure, including the preparation of joint interrogatories and requests for production of documents and the examination of witnesses in depositions;

(3) supervising the efforts of other counsel or committees of counsel, in their discretion, in a manner to ensure that pretrial preparation for the plaintiffs is conducted efficiently and effectively;

(4) maintaining adequate time and disbursement records for plaintiffs' counsel;

(5) monitoring the activities of all plaintiffs' counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided, including the avoidance of unnecessary or duplicative communications among, and unnecessary or duplicative attendance by, plaintiffs' counsel;

(6) assessing common litigation costs and collecting assessments as appropriate and necessary;

(7) making a good faith recommendation to the Court on the allocation of any attorneys' fees awarded by the Court;

(8) conducting settlement negotiations on behalf of plaintiffs;

(9) entering into stipulations with opposing counsel as necessary for the conduct of the litigation;

(10) receiving and, as appropriate, distributing Orders from the Court and documents from opposing parties and counsel;

(11) executing the Orders of the Court concerning the conduct of the litigation. This includes participating in drafting pleadings, motions, oral argument, written discovery, depositions, or pre trial preparation and settlement. Co-Lead Class Counsel may organize and delegate to other plaintiffs' counsel other matters to the extent appropriate for the efficient prosecution of the case; and

(12) working with Liaison Counsel to ensure that all filings and other activities are taken in full conformity with the requirements of all applicable local rules and any individual requirements of the Court;

(13) working with other plaintiffs' counsel to ensure that the case is handled efficiently and cost effectively, and to ensure that only work assigned by Co-Lead Class Counsel is performed; and

(14) performing such other duties as may be incidental to proper coordination of plaintiffs' pretrial activities or authorized by further order of the Court.

**D. Agreements With Co-Lead Class Counsel and Liaison Counsel**

Defendant's counsel may rely upon all agreements and representations made with or by Co-Lead Class Counsel or Liaison Counsel in connection with the prosecution of the Actions.

**E. Organization of Defense Counsel**

Peter W. Herzog III of Bryan Cave LLP is appointed Lead Counsel for Defendant, and Thomas R. Curtin of Graham Curtin, P.A. is designated as Defendant's Liaison Counsel.

**F. Agreements with Defendant's Lead and Liaison Counsel**

Plaintiffs' counsel may rely upon all agreements and representations made with or by Defendant's Lead Counsel or Liaison Counsel in connection with the prosecution of the Actions.

**G. Document Preservation**

1. The parties to this litigation shall take reasonable steps to preserve all documents, electronic data, and other tangible objects within their possession, custody or control containing information that is relevant to the allegations and defenses in this litigation, or that may lead to the discovery of admissible evidence in this litigation.

2. This preservation obligation applies to currently-existing documents, electronic data, and other tangible objects within the parties' possession, custody, or control, as well as documents, electronic data, and other tangible objects generated, produced, or otherwise created in the future during the pendency of this litigation until an agreement can be reached among the parties regarding a cutoff date.

**H. Filing of Consolidated Amended Complaint**

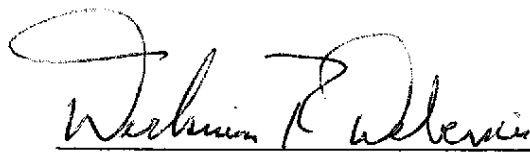
Plaintiffs shall file a Consolidated Amended Complaint in this Consolidated Action, which shall supersede the complaints filed in each of the individual Actions, by May 2, 2008.

Defendants shall file a response by motion or answer no later than 30 days after service of process of the Consolidated Amended Complaint.

**I. Initial Conference of Counsel**

In anticipation of an initial scheduling conference with this Court, counsel shall meet and confer and seek consensus to the extent possible with respect to a proposed discovery plan under Rule 26(f) and a suggested schedule under Rule 16(b) for joinder of parties, amendment of pleadings (or the filing of a consolidated complaint), class certification and other motions, etc. The Court designates Plaintiffs' Liaison Counsel and Defendant's Liaison Counsel to arrange the initial conference of counsel.

DATED: April 11, 2008

  
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DICKINSON R. DEBEVOISE  
UNITED STATES DISTRICT JUDGE